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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,256	03/05/2002	Carl Triplett	29930.8000	6817
48236	7590	04/13/2005	EXAMINER	
SNELL & WILMER, LLP ONE ARIZONA CENTER 400 E. VAN BUREN PHOENIX, AZ 85004-2202			KIM, CHRISTOPHER S	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/091,256	TRIPLETT ET AL.	
	Examiner	Art Unit	
	Christopher S. Kim	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-13,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13,23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1: ☐ Certified copies of the priority documents have been received.
- 2: ☐ Certified copies of the priority documents have been received in Application No. _____.
- 3: ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 1, 2005 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claims 1, 3, 4, 8, 9, 11, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamb (3,206,178).

Lamb discloses an emanator comprising: a first material 12 and a second material 11 adjacent to the first material 12. The emanator is configured such that a liquid travels through the emanator at a rate no less than a rate at which it would travel through the first material 12 alone and no less than a rate at which it would travel through the second material 11. The rate at which liquid travels through the emanator is equal to the rate at which the liquid would travel through the first material 12 alone, and the rate at which liquid travels through the emanator is greater than the rate at which the liquid would travel through the second material 11; because the first material 12 is porous while the second layer 11 is nonporous.

4. Claims 1-3, 9, 10, 23, 24 are rejected under 35 U.S.C. 102(b) as being anticipated by over Harkenrider et al. (2,943,378).

Harkenrider discloses an emanator comprising a first material 26 and second material 28.

Claim Rejections - 35 USC § 103

5. Claims 4-6 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harkenrider et al. (2,943,378) in view of Denen et al. (6,296,196).

Harkenrider discloses an emanator comprising a first material 26 and second material 28. Harkenrider does not disclose nylon and polypropylene. Denen discloses nylon and polypropylene in column 6, line 16. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have used nylon and polypropylene in the device of Harkenrider as taught by Denen for "good capillary action" (Denen, column 6, line 9).

Response to Arguments

6. Applicant's arguments filed April 1, 2005 have been fully considered but they are not persuasive.

Applicant argues that Harkenrider does not disclose a the second material being a different material than the first material. Harkenrider discloses a first material 26 being a different material than second material 28.

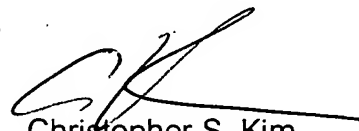
7. Remainder of applicant's arguments with respect to claims 1-6, 8-13, 23 and 24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Christopher S. Kim
Primary Examiner
Art Unit 3752

CK